

United States District Court
Southern District of Texas

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF TEXAS

ENTERED
June 02, 2020

David J. Bradley, Clerk

Christopher Page,

Plaintiff,

versus

Phillip R. Lehman, et al.,

Defendants.

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Civil Action H-18-4051

Opinion on Final Dismissal

The defendants move for summary judgment because Christopher Page does not show an injury or that the force used against him was excessive. Page says that Okoronkwo hit Page in the eye with his fist when trying to take Page to the ground. Page also says that Lehman hit Page in the head with his knee while they wrestled on the ground and then sat on his head until backup arrived. Pages says that his eyesight got worse nine months later and that he needed glasses.

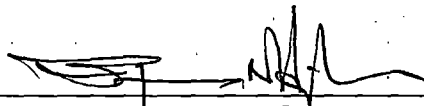
A court may grant summary judgment if the pleadings and evidence submitted show that there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. Page must offer evidence that a material issue of fact exists as to each element of his excessive force claim in order to survive summary judgment. Page must show: (a) an injury; (b) the injury resulted directly and only from a use of

force that was clearly excessive to the need; and (c) the excessiveness of the force was objectively unreasonable.

A review of the complaint, more definite statement, and records offered by the defendants do not show that Page suffered an injury or that any injury was caused by the use of force. Page only says that after the incident he complained he was losing his eyesight. Page does not say that his loss of eyesight was a result of the force used against him. Page even states that the altercation was not that serious in an incident report created shortly after the altercation. Page does not mention an injury from the altercation. Page also did not complain of any injury from the altercation despite being examined immediately after the altercation by the medical clinic. Page also did not complain of any injury from the altercation despite several medical clinic visits over the next several months. Page also did not mention the altercation when complaining of losing his eyesight.

The motion for summary judgment is granted. (27) Page's complaint will be dismissed with prejudice.

Signed at Houston, Texas, on June 1, 2020.



Lynn N. Hughes
United States District Judge